

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**UNITED STATES OF AMERICA**

**vs.**

**NICHOLAS EDWARD BOWSER**

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**NO. 1:17-cr-00381-RP**

**REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

**TO: THE HONORABLE ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE**

The undersigned submits this Report and Recommendation to the District Court pursuant to 28 U.S.C. § 636(b), 18 U.S.C. § 3401(i), and Rule 1(d) of Appendix C of the Local Court Rules of the United States District Court for the Western District of Texas, Local Rules for the Assignment of Duties to United States Magistrate Judges.

**I. PROCEDURAL BACKGROUND**

On April 12, 2018, Nicholas Edward Bowser was sentenced to 18 months imprisonment followed by a three-year term of supervised release for Possession of a Firearm by a Felon, in violation of 18 U.S.C. § 922(g)(1). In a Petition for Warrant or Summons for Offender under Supervision dated January 11, 2019 (Dkt. No. 43), the Probation Office alleged that Mr. Bowser violated two mandatory conditions of his supervision (not to commit another crime or unlawfully possess a controlled substance) and two standard conditions (not to possess a firearm or associate with a convicted felon). Mr. Bowser was arrested by Austin, Texas, police on January 10, 2019, and charged with Possession of Controlled Substance and Tampering with Evidence. An ongoing investigation by Austin police also determined that Mr. Bowser was associating with a felon.

U.S. District Judge Robert Pitman authorized the issuance of a warrant on January 11, 2019. Mr. Bowser was convicted on the state charge of Possession of a Controlled Substance, namely, Cocaine and sentenced to three years imprisonment on July 19, 2019. A final revocation hearing was set before the undersigned at 9:30 a.m. on March 25, 2020.

## **II. ANALYSIS**

Federal Rule of Criminal Procedure 32.1(c) provides that a hearing is not required in a revocation proceeding if (A) the person waives the hearing; or (B) the relief sought is favorable to the person and does not extend the term of supervised release; and (C) an attorney for the government has received notice of the relief sought, has had reasonable opportunity to object, and has not done so.

On March 23, 2020, the parties submitted an Agreed Recommended Disposition in Final Revocation Proceeding and Waiver of Defendant's Appearance and Waiver of Hearing ("Agreed Recommended Disposition") (Dkt. No. 59). That agreed filing states in part:

The parties have conferred in this case and agreed that an appropriate resolution of this matter would be to accept Mr. Bowser's plea of true to the alleged violations, revoke Mr. Bowser's term of supervised release, sentence Mr. Bowser to 8 months, and find that no supervised release should follow. This disposition is favorable to Mr. Bowser and the Government does not object to it.

The filing further states that Mr. Bowser's counsel has fully advised Mr. Bowser of his right to a hearing, to the disclosure of the evidence against him and all of the rights relating to sentencing and allocution, and that, understanding those rights, he wishes to waive all of them and waive any hearing in this case, and make a plea of "True" to the petition.

### **III. FINDINGS OF THE COURT**

Based on the parties' agreement and the Agreed Recommended Disposition, as well as Mr. Bowser's plea of "True," the Court finds that Mr. Bowser violated conditions of his supervised release by committing a new offense.

### **IV. RECOMMENDATIONS**

Based on the agreement of the Government and the Defendant, the Court **RECOMMENDS** that Mr. Bowser's supervised release be **REVOKED** and that Mr. Bowser be sentenced to eight (8) months incarceration with no supervised release to follow.

### **V. OBJECTIONS**

Because this is an agreed disposition, there will be no objections to this Report and Recommendation, and the matter is ripe for the District Court to act upon it.

**SIGNED** on March 23, 2020.



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SUSAN HIGHTOWER  
UNITED STATES MAGISTRATE JUDGE